

REMARKS

Claims 1 to 7 and 10 to 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Herschkorn in view of Fraser. Claims 1 to 4 and 10 to 15 have been cancelled without prejudice. Original claims 8 and 9 have been withdrawn responsive to a prior restriction.

THE INVENTION

Claims 5 to 7 and new independent claim 16 are generally directed to a computer system, device and method for facilitating a sale of an item between one or more sellers and one or more potential buyers. The system includes a memory storing data received from the seller identifying one or more items to be offered for sale and a computer processor operatively connected to the memory and programmed in a specific way as recited in claims 5 and 16. Using a central computer system, the method for facilitating such a sale is set forth in independent claim 6 and dependent claim 7. It is submitted that, based upon the remarks set forth hereinbelow, all of these claims are now allowable and that the rejections under 35 U.S.C. 103(a) are thereby overcome.

The central or core features which render the invention as now claimed which distinguishes over the combination of references to Herschkorn and Fraser resides firstly and most importantly with respect to applying a predetermined spending limit by the buyer on behalf of the buyer and in then allowing the buyer to bid on more than one item offered for sale by the seller with bids which collectively substantially exceed the specified spending limit for the buyer.

For example, a spending limit for the buyer is pre-established at five million dollars. The seller offers a number of items for sale, six of which are shown herebelow which interest the buyer, none of which exceed the pre-established spending limit.

EXAMPLE

<u>SELLER OFFERINGS</u>	<u>1ST ROUND BUYER BIDS</u>	<u>2ND ROUND BUYER BIDS</u>
Item 1 @ \$2 mil.	Yes	No
Item 2 @ \$1.5 mil.	Yes	Yes
Item 3 @ \$4.5 mil.	Yes	No
Item 4 @ \$3.5 mil.	Yes	SOLD
Item 5 @ \$5.5 mil.	No	No
Item 6 @ \$4.75 mil.	Yes	No

As indicated, the buyer may enter initial or first round bids simultaneously on any or all of items 1, 2, 3, 4 and 6 because each of those bids are below the pre-established spending limit or purse size of \$5 mil. However, the buyer may not bid on Item 5 which, at 5.5 mil., exceeds the spending limit.

Assume that the \$3.5 mil. bid for item 4 was accepted. Thereafter, the spending limit of the buyer would have been reduced to \$1.5 mil. so that all other pending bids are cancelled except for the \$1.5 mil. bid for item 2. The bidder would still be able to enter further bids which do not exceed the new spending limit of \$1.5 mil. and then would be prohibited from bidding on items 1, 3, 5 and 6. By this arrangement, the buyer, with a relatively modest spending limit has the opportunity to place bids on a broad range of available items for sale by a seller, each individual bid being allowable up to the current spending limit established for the buyer.

To reiterate, the preferred safeguard in the system is in the form of an immediate retraction or cancellation of all other bids placed by the buyer which would individually exceed the new established spending limit which is equal to the original spending limit reduced by the amount of the accepted bid. In this case, as shown in the third column of

the Example, in the second round of bidding, the buyer would only be allowed to bid on item 2 having a bid price of \$1.5 mil, equal to the remaining spending limit of this buyer after purchasing item 4 at \$3.5 mil.

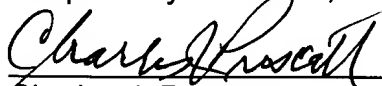
The further preferred safeguard built into the claimed system is with respect to the preferred automatic withdrawal of all bids which exceed the new recomputed spending limit.

THE REJECTIONS

Examiner Akers relies upon the teaching of Herschkorn in combination with Fraser in rejection original pending claims 5, 6 and 7 as set forth in paragraphs 9, 10 and 11 of the office action. However, it appears as though the above emphasized features of the claimed invention were overlooked and have not been identified as being taught in either of the applied references. Although the undersigned would reserve the right to further distinguish those references as they are significantly diverse from the teaching and framework of the present invention, it is submitted that the above identified distinguishing features not taught by the combination of either Herschkorn or Fraser render the claims sufficiently distinctive as to be patentable over those references.

It is submitted that all claims now in the case are in condition for allowance and a Notice of Allowance is respectfully requested. However, if Examiner Akers finds any remaining issues, he is requested to contact the undersigned for a telephone interview to resolve those issues.

Respectfully submitted,



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